

DEPARTMENT OF BENEFIT PAYMENTS

744 P Street
Sacramento, CA 95814
Tele: 916/445-2077



June 18, 1976

ALL-COUNTY LETTER NO. 76-88

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: EAS § 50-004 - HYPOLITE v. CARLESON

REFERENCE:

Attached is a new addition to Division 50 of the Eligibility and Assistance Standards (EAS) Manual. The new regulation, EAS § 50-004, contains instructions on how to implement the retroactive eligibility and grant redeterminations required by Hypolite v. Carleson. Implementation procedures must begin on July 1, 1976.

Questions concerning the requirements of Section 50-004 should be addressed to the AFDC Program Operation Bureau at 916/445-4458.

Sincerely,

MARION J. WOODS
Director

cc: CWDA

OBSOLETE

Superseded by

ACL 77-15

Issued

317-77

FACE SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE
(Pursuant to Government Code Section 11380.1)

RECEIVED FOR FILING
JUN 18 1976
Office of Administrative Hearings

ENDORSED
ACCEPTED FOR FILING
(Gov. Code 11380.2)
JUN 18 1976
Office of Administrative Hearings

Copy below is hereby certified to be a true
and correct copy of regulations adopted, or
amended, or an order of repeal by:

Department of Benefit Payments
(Agency)
Dated: June 10, 1976
By: *Marion J. Reed*
Director
(Title)

ENDORSED
FILED
In the office of the Secretary of State
of the State of California
JUN 18 1976
At 10:45 o'clock *9* M.
MARION FONG EU, Secretary of State

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After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Div. 3, Part 1, Chapter 4.5) and pursuant to the authority vested by Sections 10552, 10553, 10554 and 10604 of the Welfare and Institutions Code, the Department of Benefit Payments hereby repeals, amends, and adopts regulations referred to in Title 22, California Administrative Code, as hereinafter set forth.

FINDING OF EMERGENCY

The implementation of the following regulations is an emergency measure necessary for the immediate preservation of the public health, safety, and general welfare within the meaning of the provisions of Section 11421 (b) of the Government Code.

Adopt Division: 50-004

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WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

The following facts constitute the emergency:

1. All County Letter 74-19, dated January 25, 1974 instructed the counties to stop denying or terminating aid based on EAS Section 41-450.12 as of January 3, 1974 and to pay retroactive aid to anyone denied or terminated since that date.
2. On June 14, 1974, the Alameda County Superior Court issued an Amended Judgment in the case of Hypolite v. Carleson ordering payment of retroactive benefits to those people whose AFDC benefits were denied or terminated on the basis of EAS Section 41-450.12 since May 15, 1972. This judgment was stayed pending an appeal. However, now that the appeals process is completed, it is necessary to fully comply with the Amended Judgment as soon as possible by providing retroactive aid for the period May 15, 1972 through January 3, 1974.
3. In order to prevent any unnecessary delays in the delivery of these retroactive benefits to aid recipients, it is necessary for these regulations to become effective immediately.

Therefore, the regulations are adopted on an emergency basis to become effective upon filing with the Secretary of State.

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(Pursuant to Government Code Section 11380.1)

50-004 HYPOLITE V. CARLESON50-004

On January 25, 1974, in All-County Letter 74-19, you were advised of the judgment of the Alameda County Superior Court in Hypolite v. Carleson. This judgment invalidated former EAS § 41-450.12 to the extent that it provided that "continued absence" does not exist within the meaning of Welfare and Institutions Code § 11250, when both parents are maintaining a home together but the child lives elsewhere. You were directed to stop denying or terminating AFDC benefits on the basis of former EAS § 41-450.12 as of January 3, 1974 and to pay retroactive aid to anyone who had been terminated or denied on the basis of EAS § 41-450.12 since that date.

On June 14, 1974, the Alameda County Superior Court issued an Amended Judgment ordering payment of retroactive benefits to those people whose AFDC benefits were denied or terminated on the basis of EAS § 41-450.12 since May 15, 1972. This judgment was stayed pending an unsuccessful appeal (Hypolite v. Carleson, 52 Cal.App. 3d 566 (1975)). It is now necessary to fully comply with the Amended Judgment by providing retroactive aid for those who were denied aid based on EAS § 41-450.12 between May 15, 1972 and January 3, 1974. The following instructions outline the procedure by which this retroactive aid will be paid.

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(Pursuant to Government Code Section 11380.1)

50-004 HYPOLITE V. CARLESON (Continued)

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The Department of Benefit Payments will enclose a copy of the attached notice (in both English and Spanish) with July 1, 1976 Medi-Cal cards. The Department will also notify those applicants who received adverse fair hearing decisions on the basis of former EAS § 41-450.12 of their rights to these retroactive benefits. A copy of this notification will be sent to the appropriate county welfare department.

County welfare departments are required to take the following actions:

1. Display posters giving notice of the retroactive benefits in prominent locations in all county welfare offices and all food stamp outlets. These posters will be mailed to you in June. They will contain substantially the same language as the attached notice, in both English and Spanish. The posters should be displayed as soon as possible, but beginning no later than July 1. They must remain on display in all county welfare offices and food stamp outlets through September 30, 1976.
2. Assist potentially eligible persons in filing claims for retroactive benefits. Attached is the Hypolite claim form (Temp 1091) which recipients must use to claim retroactive benefits. You should duplicate this form in sufficient supply and have them available in all welfare offices for distribution to all persons requesting to make a claim. The terms of the judgment specify that individuals who wish to file a claim for retroactive benefits shall have at least

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90 days to file such claims with the county welfare department. However, the county shall accept and process requests received after September 30, 1976 and continue to do so until June 30, 1977. If your records, or the applicant's claim, indicate that an applicant for retroactive aid resided in another county during the period in question, you should so advise him/her and assist him/her in making any appropriate claims to that county.

3. Process claims for retroactive benefits in the same manner as current applications for AFDC. When a claim for retroactive benefits is received, the county welfare department shall check its files against information supplied on the claim, obtain any necessary additional information from the claimant, and make a determination of eligibility for retroactive benefits within forty-five (45) days from the date the claim is received by the department. Eligibility and grant amounts shall be determined under the regulations as they existed at the time of application during the period of May 15, 1972 through January 3, 1974 except that the invalid former EAS § 41-450.12 and other regulations which were invalidated by court order shall not be applied.

If any claimant is unable to provide you with any or all of the information you request, you must identify the case records, determine the applicant's eligibility for retroactive aid, and determine eligibility and grant amounts based, in the absence of conflicting evidence, on the best information the applicant is able to provide to you.

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50-004

Every claimant must be notified of your determination and of his or her right to a fair hearing on the appropriate Form 239, Notice of Action. If an applicant is found to be eligible for these retroactive benefits, the county shall issue a warrant covering the period during which the child was eligible. If the child was eligible after January 3, 1974, but a new application was not made on his or her behalf, aid shall be paid for that period after January 3, 1974 during which the child was eligible. The retroactive aid shall be paid to the person who has the responsibility for administering funds on the child's behalf or to the relative with whom the child is currently residing.

4. Review AFDC cases during the annual redetermination process to determine whether anyone in the family is eligible for these retroactive benefits. As part of the annual redetermination process, the county must establish procedures for identifying children who were living with a relative who was not the child's parent but whose parents were living together someplace else during the period in question. If such children are identified at the time of the annual redetermination, you must then determine whether the family is entitled to retroactive aid. These procedures should be applied in reviewing all AFDC cases for which an annual redetermination is made between July 1, 1976 and June 30, 1977.
5. Claiming procedures. Retroactive payments may be authorized by a single line entry on the ABCD 278L (or substitute authorizing document) and paid in one warrant. The months

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covered in the amount authorized will be identified on the
authorizing document. The minimum information needed on the
Aid Payroll is case number, name, persons count, amount,
warrant number, and indication that the amount paid is the
result of a recomputation in accordance with the Hypolite
v. Carleson decision.

Any questions regarding the procedure for paying retroactive bene-
fits under the Hypolite case should be directed to the AFDC
Program Operations Bureau at 916/445-4458. Any questions regarding
claiming procedures should be directed to the Financial Planning
Bureau at 916/445-7046.

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50-004 HYPOLITE V. CARLESON (Continued)

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NOTICE OF RETROACTIVE BENEFITS

IMPORTANT NOTICE

READ THIS CAREFULLY. YOU OR SOMEONE YOU KNOW
MAY BE ELIGIBLE FOR BACK PAYMENTS FROM THE
WELFARE DEPARTMENT.

You may be entitled to a back payment from the welfare department
if, between May 15, 1972 and January 3, 1974, you or someone
living with you was:

1. A grandchild, niece, nephew or other related child living
with a relative who was not the child's parent.

AND

2. That child was found ineligible for AFDC, ONLY BECAUSE his
or her parents were living together someplace else.

If you think you are eligible for this back payment, go to your
local welfare office and ask for a HYPOLITE claim form. Return
this form to your local welfare office after July 1, but before
September 30, 1976.

If you need help in completing the claim form, or if you have
any questions about the back payments, you should contact your
eligibility worker or the local county welfare department.

If you are not eligible for this back payment, but you have
friends or relatives who are in this situation, tell them about
this notice.

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NOTICE TO INDIVIDUALS WHO RECEIVED
ADVERSE FAIR HEARING DECISIONS

IMPORTANT NOTICE - YOU MAY BE ELIGIBLE FOR
BACK PAYMENTS FROM THE WELFARE DEPARTMENT

A recent court decision requires the welfare department to refund
money to some people who applied for Aid to Families with
Dependent Children (AFDC) payments since May 15, 1972.

State records indicate that you may be eligible for a back pay-
ment because you were denied AFDC on behalf of children in your
care whose parents were living together someplace else.

In order to claim the money which may be owed to you, you should
fill out the claim form on the back of this letter and send it
or take it to the county welfare department where you applied for
AFDC. You must send in the claim form within 90 days of the date
you receive this letter in order to receive back payments.

Therefore, you should send in the claim form as soon as possible.

If you have any questions about the back payments or if you need
help in completing the claim form, you should contact your
eligibility worker or the local county welfare department.

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50-004 HYPOLITE V. CARLESON

(Continued)

50-004

State of California - Health and Welfare Agency

Department of Benefit Payments

CLAIM FOR BACK PAYMENTS
UNDER HYPOLITE v. CARLESON

I believe that I may be entitled to back payments of welfare benefits because, between May 15, 1972 and January 3, 1974, I or someone living with me was a grandchild, niece, nephew or other related child who was living with a relative who was not the child's parent and was denied aid ONLY BECAUSE that child's parents were living together someplace else.

1. The relative with whom the child was living when the application for AFDC was denied is:

- a. Full Name:
b. Present Address:
c. Telephone Number:

2. The child(ren) who were denied aid are:

- a. Name(s):
b. Present Address(es):
c. Telephone Number(s):
d. Relationship(s):
(grandchild, niece, etc.)

3. A written application for aid was made on behalf of the child(ren):

- a. On about what date? _____
b. In what county? _____
c. In which welfare office? _____

4. The child began living with this relative:

- a. On about what date? _____
b. Does the child still live with this relative? ____ Yes ____ No
c. If no, when did the child leave? _____

5. Were the child's parents living together during the time the child lived with this relative? ____ Yes ____ No

I agree to cooperate with the county welfare department in supplying any additional information that may be necessary to determine whether I am eligible for these retroactive benefits.

I declare under penalty of perjury that all of the statements above are true to the best of my knowledge and belief.

Claimant's Signature_____
Date

Address _____

Phone No. _____

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State of California - Health and Welfare Agency

Department of Benefit Payments

DEMANDA DE PAGO RETROACTIVO
 BAJO HYPOLITE v. CARLESON

Creo que me corresponden pagos retroactivos de beneficios de Bienestar Social porque, entre el 15 de Mayo de 1972 y el 3 de Enero de 1974, yo, o alguien que vivía conmigo, era nieto, sobrina, sobrino, u otro niño con parentesco que vivía con un pariente no siendo sus padres, y me fue negada asistencia SOLAMENTE PORQUE los padres de ese niño vivían juntos en otro lugar.

1. El pariente con quien el niño vivía cuando la solicitud de AFDC fue negada es:
 - a. Nombre completo:
 - b. Domicilio Presente:
 - c. Número de Teléfono:
2. El niño(s) a quien se le negó asistencia es:
 - a. Nombre (s):
 - b. Domicilio(s) Presente:
 - c. Número(s) de Teléfono:
 - d. Parentesco(s):
(nieto, sobrina, etc.)
3. Una solicitud de asistencia fué hecha por escrito a favor del niño(s):
 - a. ¿Alrededor de qué fecha? _____
 - b. ¿En qué condado? _____
 - c. ¿En qué oficina de Bienestar Social? _____
4. El niño(s) comenzó a vivir con este pariente:
 - a. ¿Alrededor de qué fecha? _____
 - b. ¿Vive el niño aún con este pariente? ____ Sí ____ No.
 - c. ¿Si NO, cuando se fué? _____
5. ¿Vivían juntos los padres del niño durante el tiempo en que el niño vivió con este pariente? ____ Sí ____ No.

Estoy de acuerdo en cooperar con el Departamento de Bienestar Social del condado en suministrar cualquier información adicional que pueda ser necesaria para determinar si me corresponden estos beneficios retroactivos.

Declaro bajo pena por juramento falso que todas estas declaraciones son verdaderas según mi leal saber y entender.

Firma del Demandante_____
Fecha

Domicilio _____

Número de Teléfono _____

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(Pursuant to Government Code Section 11380.1)

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

CHRISTINA HYPOLITE, a minor, by
BERTHA HYPOLITE, her guardian,
MICHAEL HALLICK JENSEN, a minor,
by ROLLAN ELLER, his guardian,
CALIFORNIA WELFARE RIGHTS
ORGANIZATION, an unincorporated
association by CATHERINE JERMANY,
President, on behalf of themselves
and all others similarly situated,

-Petitioners-Plaintiffs,

vs.

ROBERT B. CARLESON, Director,
Department of Social Welfare,
State of California, individually
and in his official capacity,

Respondent-Defendant.

NO. 424055

AMENDED JUDGMENT AFTER
REVERSAL ON APPEAL
GRANTING PEREMPTORY WRIT
OF MANDATE

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This Court in its Judgment of January 3, 1974, having
retained jurisdiction over the issues of petitioners' claims
for retroactive class relief and attorney's fees,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that that

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(Pursuant to Government Code Section 11380.1)

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Judgment, entered on January 4, 1974 in Judgment Book 316 at Page 28, shall be amended to add the following:

5. The members of petitioners' class shall be entitled to the restoration of all those monies withheld pursuant to EAS §41-450.12 from May 15, 1972, or the date of their terminations from, or applications for, assistance, if later; provided, however, that those members of the class who suffered adverse fair hearing decisions by virtue of EAS §41-450.12 on or after May 15, 1972, shall be entitled to retroactive benefits to the same extent that said retroactive benefits would have been granted had those fair hearings been decided in claimants' favor.

6. A peremptory writ of mandate shall issue from this Court commanding respondent-defendant and his successors in office forthwith:

(a) To ascertain the identities of those individuals who suffered adverse fair hearing decisions by virtue of EAS §41-450.12, as defined in Paragraph 5, and to notify said individuals that they may be entitled to retroactive benefits to the same extent that said retroactive benefits would have been granted had those fair hearings been decided in claimants' favor; said notice shall be sent by first class mail to said individuals at their last known address; individuals who wish to initiate claims for retroactive relief shall have ninety (90) days from the date of the mailing of the aforesaid notice to file a claim with

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their county welfare department and the aforesaid notice shall so state;

(b) To instruct each and every county welfare department to include a notice in all envelopes containing AFDC warrants or income reports, at the earliest convenient mailing date of such warrants or income reports, informing recipients of their potential entitlement to retroactive benefits in accordance with the terms of the Amended Judgment After Reversal on Appeal Granting Peremptory Writ of Mandate, dated June 14, 1974; individuals who wish to initiate claims for retroactive relief shall have ninety (90) days from the date of the mailing of the aforesaid notice to file a claim with their county welfare department and the aforesaid notice shall so state;

(c) To take appropriate action to have the aforesaid notice displayed in prominent locations in all county welfare departments, including district offices, if any, and all food stamp outlets informing readers of their potential entitlement to retroactive benefits in accordance with the terms of the Amended Judgment After Reversal On Appeal Granting Peremptory Writ of Mandate and the manner of application therefor; said notices shall be displayed for ninety (90) days and shall state that claims for retroactive benefits must be filed with the county welfare department within ninety (90)

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days from the date of posting;

(d) To instruct each and every county welfare department to have forms available for distribution to claimants which may be used to initiate claims for retroactive benefits in accordance with the terms of the Amended Judgment After Reversal On Appeal Granting Peremptory Writ of Mandate;

(e) To instruct the counties to process claims for said retroactive benefits in the same manner that current applications for AFDC are processed insofar as the time in which eligibility determinations must be reached, issuance of Notices of Determination and appeal rights are concerned;

(f) To take appropriate action to insure that all of the aforesaid notices and forms are printed in both English and Spanish; the wording of said notices and forms shall be in easily understandable language and shall be first approved by counsel for petitioners;

(g) To pay the Legal Aid Society of Alameda County attorney's fees in the amount of Nine Thousand-Six Hundred (\$9,600.00) dollars;

(h) To pay San Francisco Neighborhood Legal Assistance Foundation attorney's fees in the amount of Eight Thousand One Hundred-Fifty (\$8,150.00) dollars;

(i) To pay Stanislaus County Legal Assistance, Inc. attorney's fees in the amount of Six Hundred-Seventy-Five

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(\$675.00) dollars;

(j) To make and file a return to said writ within one hundred-thirty-five (135) days following service thereof, setting forth what has been done to comply.

7. The Court shall retain jurisdiction over this proceeding until full compliance with the terms of the Amended Judgment After Reversal On Appeal Granting Peremptory Writ of Mandate has been achieved.

DATED:

JUDGE OF THE SUPERIOR COURT

Judgment entered on _____, 197

in the Judgment Book, Volume No. _____, page _____.

JACK G. BLUE, CLERK

By

DEPUTY CLERK

APPROVED AS TO FORM:

CRAIG MODLIN, Deputy Attorney General
Attorney for Respondent

SHARON J. GOLUB
Attorney for Petitioners

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FORM 400A
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

There are no state mandated local costs in this regulation that require reimbursement under 2231 of the Revenue and Taxation Code because the regulation change is made to comply with a court decision.

Approved:



MARION J. WOODS, Director
Department of Benefit Payments

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